HON'BLE SRI JUSTICE A. GOPAL REDDY

And

HON'BLE SRI JUSTICE P. SWAROOP REDDY

W.P.No. 19462 of 2007

Wednesday, the 31st day of October,2007.

Between:
G. Kumara Krishna

…Petitioner

and

State of AP., represented by
Principal Secretary (Home),
Government of Andhra Pradesh,
Secretariat, Hyderabad and others.

…..Respondents

W.P.No. 19462 of 2007

O r d e r:
(Per P. Swaroop Reddy, J.)

This Habeas Corpus writ petition is filed for declaring the action of the Police, Kurnool in detaining the *detenu* – T. Balaji son of Nagabhushanam as illegal, arbitrary and for his release.

2. The case of the petitioner is that the alleged *detenu*, Balaji was a driver and is a resident of Vellatur village, Bhattiprolu Mandal of Guntur District and that he was illegally detained by the third respondent, Mr. Ulfan, Sub Inspector of police, Bethamcherla P.S., Kurnool District without any valid reasons since 2.9.2007. The alleged *detenu* is the driver of Ambassador Car bearing No.AP-16-TV-6940; on 31.8.1997 he went in that car on hire for a marriage and on 2.9.2007, he started down to Guntur; on the way the third

respondent way laid and took the *detenu* into custody and seized the vehicle saying that he was required in a hit-and-run case; at 4.30 PM, the *detenu* called the petitioner over his cell phone and informed as to what had happened; on enquiry by the petitioner, the third respondent told him that he arrested the *detenu* in a hit-and-run case and seized the Ambassador car; there was an attempt by the police to get the matter compromised, but it did not materialize; the police illegally detained the *detenu* and the third respondent also did not produce the *detenu* in any court and the seized Ambassador car was being used by the third respondent as though it is his own car.

3. On notices being sent, the Superintendent of Police, Kurnool filed counter affidavit denying the allegation of illegal arrest and stating that the alleged *detenu* was produced on 13.9.2007, in a hit-and-run case, by the President of Lorry and Jeep Drivers Association, Bethamcherla; the Investigating Officer examined him and thereafter arrested and produced him before the Court and a case in Cr.No.111 of 2007 under section 337 IPC was registered.

4. As the *detenu* was produced before a Court and was released on bail by the competent court, the present writ petition has become infructuous.

5. No doubt, there is a doubt with regard to the fact, as to whether the *detenu* was taken into custody by the third respondent on 2.9.2007 and illegally detained; or whether he was produced only on 13.9.2007 by the President of Lorry and Jeep Drivers Association, Bethamcherla, as stated in the counter. We do not intend to go into this allegation and the alleged *detenu*, in case, he is aggrieved by the same, can take appropriate action with regard to his illegal detention.

6. After the counter of the respondent was filed, as per which the *detenu* was released on bail, the learned counsel for the

petitioner represented that the third respondent – SI of Police has illegally detained the car and using the same, as if it is of his own and did not handed it over either to the owner or the alleged *detenu*. A notice was issued to the third respondent for his presence and the third respondent was present in the court on 8.10.2007. The learned Advocate General represented that the car was never taken into custody by the third respondent; whereas the learned counsel for the petitioner asserts that the third respondent has taken the car into his possession; it is still in his possession and is illegally using the same. We then directed the learned counsel for the petitioner to make a complaint, in writing, to the Superintendent of Police, Kurnool, with regard to taking possession of the car by the third respondent and keeping the same in his illegal possession; with a further direction that on such complaint being filed, the Superintendent of Police, Kurnool shall conduct enquiry into the same and report to the court on 30.10.2007 and the matter was directed to be posted on 31.10.2007. Today the learned counsel for the petitioner reported that on the very next day of passing of the order by this court on 11.10.2007, the third respondent released the Car and insisted that there shall not be any complaint to the Superintendent of Police.

7. Thus the Car is also released; but - whether the car was seized illegally and kept in the custody of the third respondent is a disputed question? In view of the nature of the allegation throughout, we suspect that there is some truth in the allegation that the third respondent, SI of police, has illegally detained the subject car. The offence committed was of petty nature being one under section 337 IPC. There was no necessity of arresting the accused and then producing him before any court, instead of releasing him on bail by

the police.

8. The learned Advocate General, on the instructions of the third respondent, reported that on account of some internal instructions in the Department, to avoid misuse of power by the Subordinate Police Officers, even in cases of bailable offences, the accused are being produced before the Court.

We do not know about the correctness of the same.

9. However, we are of the opinion that it is a case of high-handedness and some action is desirable to be taken to discourage the Subordinate Police Officers from behaving in such a manner with citizens. May be, on account of fear, the petitioner could not give a complaint, to the Superintendent of Police, as ordered by this court on 11.10.2007, as he might have felt that what all he suffered till then was enough.

10. In the circumstances, we direct the Superintendent of Police, Kurnool, to enquire into the matter, including the question, as to whether in all the cases arising from Bethamcherla Police Station, Kurnool District, accused were being invariably produced in the court in cases involving bailable offences also and as to whether there is any truth in the allegation that the third respondent – SI of Police, Bethamcherla P.S., has mis-used the Ambassador car bearing No.AP-16-TV-6940 and take appropriate departmental action against the said Sub Inspector of Police, if there is truth.

11. We hope and trust that the Superintendent of Police would take appropriate action in the matter.

12. The Superintendent of Police shall submit a report to this Court about the steps and action he has taken within one month, from the date of receipt of a copy of this order, and that shall form

part of the record of this writ petition and the Registry shall place the same for our perusal.

13. Accordingly, the writ petition is closed with the observations as above. No costs.

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A. GOPAL REDDY, J.

October 31, 2007.
***VA/BVS**

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P. SWAROOP REDDY, J.

Note: 1) Copies of this order shall be sent to all the concerned,
including the Superintendent of Police, Kurnool, along with copies of all the papers in the case.

2) A copy of this order shall also be sent to the petitioner, through post, at the cost of the State.(BO)BVS.